

EXHIBIT O

Ryan Murray

April 7, 2016

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

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MURRAY ENERGY CORPORATION, :

et al. :

Plaintiffs, :

vs. : Case No.:

5:14-cv-00039

GINA MCCARTHY, ADMINISTRATOR, :

UNITED STATES ENVIRONMENTAL :

PROTECTION AGENCY, :

acting in her official capacity, :

Defendant. :

-----:

St. Clairsville, Ohio
Thursday, April 7, 2016

Video Deposition of:

RYAN MURRAY

called for oral examination by counsel for
defendant, pursuant to notice, at Shaheen Law Office,
128 South Marietta Street, St. Clairsville, Ohio,
before Rebecca Williams, a Notary Public in and for
the State of Ohio, beginning at 8:58 a.m., when were
present on behalf of the respective parties:

1 Q. I'll make it easy here. I'll just
2 give you a copy.

3 A. Thank you.

4 Q. I believe it's dated May 23rd. All
5 right. This should be the first amended
6 complaint for declaratory injunctive relief in
7 this case. I believe it's dated May 23rd,
8 2014. I'm giving a copy to the reporter and to
9 opposing counsel.

10 - - - - -

11 (Thereupon, Deposition Exhibit 9,
12 Complaint, was marked for purposes
13 of identification.)

14 - - - - -

15 Q. I think we can move this along a
16 little bit. I'll direct your attention to Page
17 18, Paragraph 78.

18 A. Yes.

19 Q. So Paragraph 78, "Each plaintiff
20 has been directly impacted by the reduced
21 market for coal caused by EPA's administration
22 and enforcement of the Clean Air Act, which has
23 either resulted or threatens to result in, the
24 closure of a coal mine and the loss of
25 good-paying jobs in areas of the country

1 already suffering from economic uncertainly and
2 high unemployment." Do you see that?

3 A. Correct.

4 Q. Okay. So what I want to talk about
5 with this topic is designed to open up a
6 discussion on this. The reduced market for
7 coal --

8 A. Okay.

9 Q. -- that phrase. Are you familiar
10 with the use of that phrase in this complaint?

11 A. Yes.

12 Q. How did you become familiar, other
13 than what you've already discussed?

14 A. Reading the topics.

15 Q. Does the reduced market for coal
16 refer to the -- well, what are the geographical
17 parameters for the reduced market for coal?

18 A. They're pretty much unlimited. I
19 mean, wherever there is a reduced market for
20 coal, we would refer to that as a reduced
21 market for coal.

22 Q. That sentence includes the global
23 market for coal?

24 A. Typically -- yeah, it could. Sure.
25 Most of our sales are domestic. It would refer

1 mostly to domestic.

2 Q. Murray Energy Corporation has some
3 foreign sale of coal, correct?

4 A. Correct.

5 Q. What percentage?

6 A. About ten million tons a year.

7 Q. And what percentage of that is the
8 total that -- how many Murray Energy
9 Corporation sales is that?

10 A. It depends on our annual output in
11 tonnage, but in terms of percentage, it could
12 be three to seven percent, something in there,
13 roughly.

14 Q. Okay. What are the time parameters
15 of the reduced market for coal as the phrase is
16 used here?

17 A. I'm not aware of time parameters
18 put on the phrase.

19 Q. So from the beginning of production
20 of sale of coal --

21 A. I mean --

22 Q. -- by Murray Energy Corporation?

23 A. If we're referencing the reduced
24 market for coal, that would probably be most
25 recently, which would be from its peak in 2008

1 Q. Who were the participants in the
2 market for coal?

3 A. You have the coal industry, coal
4 mines, of course, you had utilities, and, of
5 course, the consumers.

6 Q. Anything else?

7 A. I think that sums it up.

8 Q. So the utilities, the mines, the
9 consumers, that's it?

10 A. The participants in the market for
11 the coal. Well, then, you would have to put in
12 the regulators, state, local and federal
13 agents, suppliers, contractors, vendors to the
14 mining industry, transportation companies, such
15 as the railroads, railroad companies. I think
16 I've covered contractors, third-party, people
17 that may work intermittently in the coal
18 industry with specialized duties. I mean, you
19 could say the employees themselves are
20 participants.

21 Q. So just so I understand, would, for
22 example, actions by a transportation company
23 affect, you know, the market for coal?

24 A. Yes.

25 Q. Okay. So any of these participants

1 could take specific actions that would affect
2 the market for coal?

3 A. Yes.

4 Q. Okay. Would you say the market is
5 complicated?

6 A. Well, yes. Yeah, as is any market
7 is.

8 Q. And would you say the market is
9 cyclical?

10 A. That's a generalization. I think
11 generally speaking, people would say coal would
12 be cyclical, but that doesn't define the
13 magnitude of the cycle, so --

14 Q. Can you give me an example of --
15 I'm sorry. Were you finished?

16 A. No, I just -- that's it. I
17 answered it.

18 Q. Can you give me an example of a
19 market, a coal market cycle, that predates
20 2007?

21 A. With the modification of the Clean
22 Air Act, which is over several years, you had a
23 point in time in America where people were
24 going away from high sulphur coal reserves and
25 going to lower sulphur sources, and mines were

1 Q. All right. Let's turn to Paragraph
2 7 -- well, let's turn to Topic 6.

3 A. But it refers to Paragraph 79.

4 Q. So Topic 6, if you're got that in
5 front of you, it says, "How EPA was, quote,
6 pressure" -- sorry.

7 It says, "How EPA has, quote,
8 pressured the electric power sector and other
9 major consumers of coal to switch to other
10 fuels, end quote, as alleged in Paragraph 79
11 (a) of the complaint since January 1st, 2000."

12 Are you prepared to testify on that
13 topic today?

14 A. Yes.

15 Q. What did you do to prepare
16 regarding this specific topic?

17 A. I've -- previously I've attempted
18 to stay up on that particular topic and then
19 also just looked through publications,
20 documents provided by the attorneys, samples of
21 documents that were collected.

22 Q. Did you have any discussion with
23 any non-attorneys about this topic?

24 A. No.

25 Q. When did the pressure start?

1 A. Well, I think it's in the general
2 context for switching fuels or pressuring coal.
3 It's been going on for many years. And if you
4 go back in time with the Clean Air Act, you had
5 specific characteristics of coal that would
6 allow you to switch to another type of coal.
7 Then the focus came to CO2, and I mean, it's
8 probably immaterial here, but air quality has
9 been improved since 1970. Hydrogen dioxide,
10 sulphur dioxide and all of these things have
11 gotten much, much better. Then there was a
12 particular focus on carbon dioxide.

13 With the regulations that have been
14 proposed on CO2, they kill the market. They
15 don't allow utilities to, as proposed, to
16 various forms -- don't allow you to at least
17 burn coal for the future, which directly
18 affects our business and our employees.

19 Q. Which CO2 regulations?

20 A. You have the Clean Power Plan.
21 You've had various proposals. I forget the
22 exact names of everything, but there's been
23 discussions of carbon taxes, clean power --
24 what's the other one?

25 There's the product called air

1 application rule, the Murray Act, which is more
2 specific to Murray Energy. The renewable
3 standard, and I'm not saying it by its proper
4 name, but, you know, basically discussions of
5 the states' requirements to have certain
6 renewables in their portfolios for dispatch.

7 There are more -- the one slide
8 that I recall with the timeline of all these
9 regulations list them all off the top of my
10 head. I can't recite them all, but there's
11 many. More than a dozen on there for sure.

12 Q. Slide --

13 A. It's called the Regulatory Train
14 Act; that's what they call it, and it's been
15 circulated for several years now. And it
16 basically gives a timeline of regulations as
17 proposed. Off the top of my head, I can't
18 recite it, but I've mentioned many of the
19 regulations on it. You can find that if you
20 Google it or -- you can find it. We may have
21 provided it to you also.

22 Q. Are there any other regulations
23 that are pressuring the electric power sector
24 to switch fuels?

25 A. Yeah. There's permanent

1 regulations, the stream protection Rule, the
2 dust standards underground, the changes to
3 permitting requirements. We've already had to
4 just -- changes to existing laws that haven't
5 resulted in -- from legislation. They've just
6 been changes to in operation that have changed
7 the way we can conduct business that are all
8 environmental in nature. I said permitting.
9 That applies to the underground and the surface
10 structures of our operations.

11 Q. How is a stream protection rule
12 pressuring the electric power sector to switch
13 to other fuels?

14 A. The stream protection rule is -- by
15 name, it sounds benign, but really what it does
16 is it prevents longwall mining underneath what
17 they call ephemeral streams, so it prevents
18 longwall mining anywhere. If the stream
19 protection rule were put into effect today, it
20 would eviscerate coals in the United States for
21 longwall mining.

22 Q. Does the stream protection rule
23 apply to power plants?

24 A. It does not apply to the power
25 plant direct. It could with their flash of the

1 power -- I mean, it might in that regard, but
2 it directly affects on their fuel supply.

3 So, for instance, if it were to be
4 put into effect tomorrow, our Harrison County
5 mine would lose 98 percent of its coal
6 reserves; therefore, the power plant that it
7 serves or supplies several million tons a year
8 to would have no coal.

9 Q. The slide that you mentioned --
10 actually, let's take a break and change the
11 tape.

12 THE VIDEOGRAPHER: Going off the
13 record at 11:34.

14 (Recess is taken.)

15 THE VIDEOGRAPHER: Going back on
16 the record at 11:49.

17 Q. Mr. Murray, I want to stick with
18 Topic 6 for just a little bit longer. I
19 promise not too long, though.

20 So we were talking about some of
21 the ways that -- some of the pressure that's
22 been applied at the electric power sector to
23 switch fuels.

24 How many entities have switched
25 fuels based on this pressure?

1 what we think it is. This is what our own
2 government tells you they think it is, and this
3 is what your future looks like."

4 Sometimes when the message is just
5 us and they're used to hearing what we think
6 the industry is going to do and we fight
7 through it and try and survive somehow, you
8 know, when your own government gives you a
9 number that says you're likely to lose your
10 job, it's nice to have a second source.

11 Q. What's your basis for saying that
12 the government hasn't come up with a number of
13 how many jobs have been lost based on the Clean
14 Power Plan?

15 A. I haven't seen anything that states
16 specifically how many jobs would be lost as a
17 result of the Clean Power Plan.

18 Q. Are you -- are you familiar with
19 the regulatory impact analyses performed by the
20 EPA that --

21 A. Yes, I am, and it's very high-level
22 document. It doesn't really say in West
23 Virginia, in this region, there's going to be
24 this many jobs lost and the effects on the
25 employment in those areas.

1 Q. Have you reviewed the RIA, the
2 Regulatory Impact Analysis for the Clean Power
3 Plan?

4 A. It's been some time. I haven't
5 reviewed it recently.

6 Q. Do you recall whether it discusses
7 the amount of job losses that will occur, in,
8 for example, the coal sector?

9 A. I don't recall the total number. I
10 just know it wasn't sufficient to communicate
11 it to our employees and say this is the effect
12 on you.

13 Q. So the EPA has come up with a
14 number, it's just not sufficient to communicate
15 --

16 A. I can't recall whether it was --
17 how broad it was, how it was stated, but I just
18 remember saying that that was -- looking at it,
19 I am saying that's sufficient. It's too much
20 of a high-level overview, too much of a
21 macro-economic once over. It doesn't give you
22 specifics that you can communicate to your
23 employees. I don't think it was a very good
24 review. It's a very high-level review.

25 Q. Let's go -- here's what I'm trying

1 including proposed regulations by the
2 administration.

3 Q. Hopefully I can refresh your
4 recollection here. This will be MEC 18.

5 - - - - -

6 (Thereupon, Deposition Exhibit 18,
7 E-mail, was marked for purposes of
8 identification.)

9 - - - - -

Ryan Murray

April 7, 2016

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